

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 175 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 7.1-5-12 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2010]:
- 6 **Chapter 12. Prohibition on Smoking**
- 7 **Sec. 1. As used in this chapter, "public place" means an enclosed**
- 8 **area in which the public is invited or permitted.**
- 9 **Sec. 2. As used in this chapter, "smoking" means the:**
- 10 **(1) carrying or holding of a lighted cigarette, cigar, pipe, or**
- 11 **any other lighted smoking equipment; or**
- 12 **(2) inhalation or exhalation of smoke from lighted smoking**
- 13 **equipment.**
- 14 **Sec. 3. (a) Except as provided in section 4 of this chapter,**
- 15 **smoking is prohibited in the following:**
- 16 **(1) A public place.**
- 17 **(2) Enclosed areas of a place of employment.**
- 18 **(3) A vehicle owned, leased, or operated by the state if the**
- 19 **vehicle is being used for a governmental function.**
- 20 **(b) An employer shall inform each of the employer's employees**
- 21 **and prospective employees of the smoking prohibition in the place**
- 22 **of employment.**
- 23 **(c) An owner, an operator, a manager, or another individual**

with authority shall remove ashtrays or other smoking paraphernalia from areas where smoking is prohibited under this chapter.

Sec. 4. (a) Notwithstanding section 3(a) of this chapter, the following facilities may allow smoking:

(1) A horse racing facility that is operated under a permit issued under IC 4-31-5.

(2) A riverboat (as defined in IC 4-33-2-17) that is operated under a license issued under IC 4-33-6 or a contract as an operating agent under IC 4-33-6.5.

(3) A facility that operates under a gambling game license under IC 4-35-5.

(4) A satellite facility that is licensed under IC 4-31-5.5.

(b) The official in charge of a facility that allows smoking under this section shall post a conspicuous sign at each public entrance of the facility stating that the facility is a smoking facility.

Sec. 5. The commission shall enforce this chapter. The commission may inspect premises that are subject to this chapter to ensure that the person responsible for the premises is in compliance with this chapter.

Sec. 6. (a) The official in charge of a public place shall do the following:

(1) Post conspicuous signs that read "Smoking Is Prohibited By State Law" or other similar language.

(2) Request an individual who is smoking in violation of this chapter to refrain from smoking.

(3) Remove an individual who is smoking in violation of this chapter and fails to refrain from smoking after being requested to do so.

(b) The proprietor of a restaurant shall post conspicuous signs at each entrance to the restaurant, informing the public that smoking is prohibited in the establishment.

Sec. 7. A person who smokes in an area where smoking is prohibited by this chapter commits prohibited smoking, a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) prior unrelated judgments for a violation of this chapter.

Sec. 8. An owner, manager, or operator of a public place or place of employment that fails to comply with this chapter commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) prior unrelated judgments for a violation under this chapter.

Sec. 9. This chapter does not prohibit a county, city, town, or other governmental unit from adopting an ordinance more restrictive than this chapter.

SECTION 2. IC 12-7-2-178.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 178.8. "Smoking", for

purposes of IC 12-24-2-8, has the meaning set forth in ~~IC 16-41-37-3~~.
IC 7.1-5-12-2.

SECTION 3. IC 12-24-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Notwithstanding IC 12-27-3-3, the superintendent of a state institution has complete authority to regulate smoking (as defined in ~~IC 16-41-37-3~~) **IC 7.1-5-12-2**) within the state institution.

(b) A physician licensed under IC 25-22.5 may prescribe nicotine as is medically necessary for a resident of a state institution.

SECTION 4. IC 16-18-2-10, AS AMENDED BY P.L.101-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) "Agency", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-2.

(b) "Agency", for purposes of IC 16-40-5, has the meaning set forth in IC 16-40-5-1.

~~(c) "Agency", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-1."~~

Page 5, between lines 33 and 34, begin a new paragraph and insert:
 "SECTION 11. IC 16-41-37-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A person who smokes **(as defined in IC 7.1-5-12-2)**

(1) in a public building; ~~except in an area designated as a smoking area under section 5 of this chapter;~~

(2) in the retail area of a grocery store or drug store that is designated as a nonsmoking area by the store's proprietor;

(3) in the dining area of a restaurant that is designated and posted as the restaurant's nonsmoking area by the restaurant's proprietor;

or

~~(4)~~ in a school bus during a school week or while the school bus is being used for a purpose described in section 2.3(3) of this chapter commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) previous unrelated judgments for violating this section that are accrued within the twelve (12) months immediately preceding the

1 violation."

2 Page 8, between lines 5 and 6, begin a new paragraph and insert:

3 "SECTION 15. THE FOLLOWING ARE REPEALED
4 [EFFECTIVE JULY 1, 2010]: IC 16-18-2-298; IC 16-18-2-318.1;
5 IC 16-18-2-332; IC 16-41-37-1; IC 16-41-37-2; IC 16-41-37-3;
6 IC 16-41-37-3.1; IC 16-41-37-5; IC 16-41-37-6; IC 16-41-37-7;
7 IC 16-41-37-8."

8 Renumber all SECTIONS consecutively.

(Reference is to ESB 175 as printed February 22, 2010.)

Representative Brown C